IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 16028 of 2002

Between:

M. Konda Reddy S/o M. Narayana Reddy,H.No.48/C Old Santhoshnagar Hyderabad-500 659

... PETITIONER

AND

The Hyderabad District Co-operative Central Bank Ltd. rep. by its General Manager, Nampally Station Road Hyderabad-500 001

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in pursuing the disciplinary proceedings against the petitioner after retirement is incompetent and without jurisdiction and further declare the action in not releasing the Gratuity amount payable to the petitioner under the Payment of Gratuity Act is arbitrary and illegal and further direct the respondent Bank to release gratuity amount and other retirement benefits forthwith to the petitioner and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.V.DURGA PRASAD

Counsel for the Respondent: MR.C.V.NAGARJUNA REDDY

The Court made the following order:

ORDER:

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The petitioner filed this writ petitioner to issue a Writ of Mandamus declaring the action of the respondent in not releasing the gratuity amount payable to the petitioner under the Payment of Gratuity Act (for short 'the Act'), 1972, under the guise of pending disciplinary proceedings after his retirement.

Learned counsel appearing for the respondent submits that, in fact, entire gratuity amount of Rs.2,70,920/- and leave salary of Rs.30,315/- totaling to Rs.3,01,235 is kept in
FDR No.15014 in the respondent bank itself in the names of the petitioner and the General Manager of the respondent bank on 29.08.2002/05.11.2002 and the petitioner is permitted to withdraw the monthly interest accrued thereon.

I am not inclined to express any opinion as regards to the surcharge proceedings that are said to have been initiated by the respondent to proceed against the petitioner. Insofar as the payment of gratuity is concerned it is decided by this Court and the Apex Court that once the employee retires from service the relationship between the employee and employer ceases to exist. Therefore, even under the Act

they cannot withhold the gratuity amount. Accordingly, the respondents are directed to permit the petitioner to withdraw the entire gratuity amount and leave salary kept in the FDR No.15014 along with interest accrued thereon.

Learned counsel for the petitioner submits that there is a difference in calculating the quantum of gratuity, if that be so, it is open for the petitioner to file an application before the competent authority under the Act for the payment of the differential gratuity amount, if any.

The writ petition is accordingly disposed of. No costs.

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V. ESWARAIAH, J

September 16, 2004

Dsk

To

1. The Hyderabad District Co-operative Central Bank Ltd. rep. by its General Manager, Nampally Station Road Hyderabad-500 001

2. Two CD Copies.